



# ARE YOU A SOCIAL INFLUENCER OR DO YOU OWN AN ONLINE BUSINESS?

## The dos and don'ts of paying your taxes and claiming deductions

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Over the last decade, the rise of social media influencers has become a remarkable phenomenon in our digital era. Along with this came the trend to professionalise this field; social media influencers started approaching their work as a full-time career. They began to bestow time, determination and resources to create high-quality content and grow their followers

**A**s the number of influencers' followers increased, so did their effect on consumer behaviour amplify. They entered into partnerships with various brands to promote and endorse products, services and experiences. In turn, these brands became leading marketing tools in the hands of businesses to reach their target markets in a more integrated personal way, as influencers could effectively weave brand messaging into their content, thereby leveraging their authenticity and trust with their followers.

Conversely, online business platforms already started evolving at the turn of the century. Nowadays, these platforms represent a substantial part of our lives, especially during the recent pandemic. Virtual reality is a product and a part of our society.

Social influencers often have their own online businesses where they endorse and sell the products and services advertised and promoted in their posts.

Of course, challenges and controversies have also increased with the growth and development of this industry. One such is the question whether local social influencers are subject to income tax in South Africa, even if their income was earned from foreign sources.

### **The South African tax realm**

he turn of the century has also celebrated the transition of the South African income tax system to a residence-based one since the years of assessment that commenced on or after 1 January 2001. Persons who are tax residents in the Republic, are taxed on their worldwide income, subject to certain exclusions. Persons who are not residents for tax purposes, are only taxed on their income from a source within the Republic. ►

- 'Resident' is defined in our Income Tax Act as "any natural person who is ordinarily resident in the Republic" or complying with all the requirements of the physical presence test. As the term 'ordinarily resident' is not defined in the legislation, there are various tests to determine whether a natural person is ordinarily resident in the Republic.

### Obligation to register for income tax

Why is this important to a social media influencer who is based in South Africa and who is earning income from foreign companies and brands? Because a social influencer who is a resident in the Republic for income tax purposes, is liable to declare all their worldwide income in their income tax return. Notably, the social influencers are conducting a trade as defined in the Income Tax Act: "trade" includes every profession, trade, business, employment, calling, occupation or venture, including the letting of any property and the use of or the grant of permission to use any patent as defined in the Patents Act or any design as defined in the Designs Act or any trade mark as defined in the Trade Marks Act or any copyright as defined in the Copyright Act or any other property which is of a similar nature".

Thus, natural persons earning income from trade, and residents for tax purposes in the Republic, are chargeable with income tax (or any other tax as relevant), leviable under the Income Tax Act, and are defined as taxpayers in this act.

Many young people, some of whom may still be at school, become social media influencers and start earning income from their trade activities. They do not realise that they must register for income tax. There is no minimum age for a taxpayer. "Taxpayer" means any person chargeable with any tax leviable" under the Income Tax Act of South Africa. In addition, tax is chargeable on taxable income, which is the product of gross income less exemptions and less allowable tax deductions.

### Requirement to register for provisional tax

A taxpayer who earns income from trade, is also defined as a 'provisional taxpayer' according to the definition in paragraph 1 of the Fourth Schedule to the Income Tax Act; it means that "any person who derives income by way of any amount which does not constitute remuneration or an allowance or advance contemplated in section 8 (1)". Any person who earns income from trade is thus included in the provisional taxpayer definition and must, therefore, also register for provisional tax in addition to their income tax type registration. Provisional tax for a year of assessment of an individual taxpayer is declared and paid at the end of August and February every year; it is a method of paying the income tax liability in advance. Provisional tax is calculated on the taxpayer's estimated taxable income.

### What is gross income, income and taxable income

All taxpayers must be cognisant of the concepts 'gross income', 'income' and 'taxable income' in order to understand how to compile their income tax returns effectively.

'Gross income' means "in the case of any resident, the total amount, in cash or otherwise, received by or accrued to or in favour of such resident . . . , excluding receipts or accruals of a capital nature, but including, without in any way limiting the scope of this definition, such amounts (whether of a capital nature or not) so received or accrued as are described hereunder . . . ". Gross income is significant as the basis upon which income tax liability is determined. The tax legislation allows for certain exemptions from normal tax to be excluded from gross income to arrive at a taxpayer's income. After having deducted amounts allowed under the Income Tax Act, the taxable income of a taxpayer on which income tax liability is calculated, is established.

Gross income, which is assigned under different categories such as remuneration income, income from trade, etc., must be declared in the income tax return of a taxpayer.

Persons, including social media influencers and online business owners who earn income from trade, must include all their earnings under gross income. Usually, the electronic income tax return form ITR12 on eFiling requires taxpayers to declare different incomes from trade separately if they have more than one trade. This is illustrated in the following example: You earn income from sources related to your activities on social media platforms such as YouTube, Instagram, TikTok, etc. Additionally, you may receive gross income from online business trading, such as selling fashion clothing and accessories or high-end cosmetics. These two streams of income may be considered two separate trades and may be distinguished respectively in your income tax return.

### Allowable tax deductions

The Income Tax Act allows certain expenses to be deducted for tax purposes. The general deductions formula contained in section 11(a) of the Income Tax Act states that "expenditure and losses actually incurred in the production of the income, provided such expenditure and losses are not of a capital nature" are allowed as deductions from the income of taxpayers carrying on a trade. ►

*"Just remember that becoming a compliant taxpayer is another way of confidently influencing your followers to do the right thing!"*

- Taxpayers may deduct all expenses that they have incurred in the production of their income from trade as long as the expenses are not capital in nature. Let us first start with the 'capital in nature' part of the general deduction formula. The 'tree and fruit' principle in tax was established in the *Visser case* (*Visser v CIR SATC 271*), where it was held that "*Income is what 'capital' produces, or is something in the nature of interest or fruit as opposed to principal or tree*". The principle clearly distinguishes that the capital is represented by the 'tree', and income, or revenue, is the 'fruit' of the tree. If an influencer uses their motor vehicle to travel in the country because they post videos on YouTube about the beauty of nature in South Africa, the car is their tree. A fancy specialised camera and all the equipment necessary to shoot, edit and produce the videos, would also be considered part of the tree. The 'fruit of the tree' is the video published on social media platforms. So, if a taxpayer acquires a new upgraded motor vehicle or new equipment, these expenses would not be allowed as a tax deduction because they are 'capital in nature'.

However, expenses associated with maintaining the 'capital', such as servicing the motor vehicle or repairing the specialised professional equipment, would be allowed under the general deduction formula. Additionally, the taxpayer is permitted to deductions under section 11(e), "*representing the amount by which the value of any machinery, plant, implements, utensils and articles owned by the taxpayer or acquired by the taxpayer as purchaser in terms of an agreement and used by the taxpayer for the purpose of his or her trade* [emphasis added] *has been diminished by reason of wear and tear or depreciation during the year of assessment*". These deductions relate to assets owned by the taxpayer or acquired under instalment sale agreements and used in the taxpayer's trade.

Typically, tax-deductible expenses include rental of premises, salaries and wages, telephone and internet expenses, stationery and printing, etc.

It is of great importance to emphasise that section 11(a) must be read together with section 23, which deals with deductions not allowed in determining taxable income. Influencers and online business owners would mostly trade as sole proprietors, that is, as individual taxpayers and they will be subject to personal income tax (PIT). Section 23 of the Income Tax Act prohibits certain deductions in the determination of the taxable income, such as domestic and private expenses incurred in the cost of the maintenance of any taxpayer, his family or establishment,

trade of the taxpayer. Nonetheless, a taxpayer who has part of their residence occupied for the purposes of the trade, may claim deductions associated, but not limited to, the rental, water and electricity, municipal expenses and other expenses, which are prorated according to the space of the occupied premises for the purposes of the trade.

A taxpayer who earns income from their social media platforms may also be entitled to deduct specific expenses related to a particular project, for instance, special clothes or special products purchased to create content, which ultimately produces revenue.

It is prudent to have your tax return always prepared and submitted by a registered tax practitioner, especially if you have complex tax-deductible expenses and if you are not quite sure how to deal with these.

## Conclusion

### Dos:

- Do register for income tax;
- Do register for provisional tax;
- Do timeously submit your provisional tax returns twice per tax year;
- Do submit your income tax returns every year;
- Do pay your income tax and provisional tax on time to avoid imposition of late payment penalties and interest;
- Do consult with a registered tax practitioner regarding your income and provisional tax returns; and
- Do claim your tax deductions sensibly and reasonably.

### Don'ts:

- Don't assume that you don't have to pay income tax;
- Don't under-declare your gross income;
- Don't overstate your tax-deductible expenses;
- Don't rely on unprofessional attitudes towards your taxpayer's obligations; and
- Don't hesitate to use the services of a registered tax practitioner, who will guide you in your journey to become a tax influencer too!

Just remember that becoming a compliant taxpayer is another way of confidently influencing your followers to do the right thing! Partnering with a qualified tax professional for relevant content creation is a powerful tool to achieve your objective and attract even more likes.